

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman; and
Robert G. Taub

Market Dominant Product Prices
Bilateral Agreement Between United States Postal
Service and Singapore Post Limited (MC2010-35)
Negotiated Service Agreement

Docket No. R2014-5

NOTICE AND ORDER CONCERNING MODIFICATION OF BILATERAL AGREEMENT
WITH SINGAPORE POST LIMITED

(Issued February 18, 2014)

I. INTRODUCTION

On February 12, 2014, the Postal Service filed Notice, pursuant to 39 CFR 3010.40 *et seq.*, that it has entered into a modification of a bilateral agreement for inbound market dominant services with Singapore Post Limited (2014 Agreement).¹ The Postal Service seeks to have the 2014 Agreement included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (Foreign

¹ Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, February 12, 2014 (collectively, Notice). The Notice identifies two changes (described in Part II of this Order), and refers to them as Modification Four.

Postal Operators 1) product on grounds of functional equivalence to the Singapore Post Agreements filed in predecessor dockets.² *Id.* at 2.

II. CONTENTS OF FILING

Compliance with filing requirements. The Postal Service's filing, which consists of the Notice, five attachments, and supporting financial workpapers, addresses compliance with 39 U.S.C. 3622 and 39 CFR 3010.40. Attachment 1 is the Application of the United States Postal Service for Non-Public Treatment of Materials.³ *Id.* at 9. Attachment 2 is a copy of Modification Four. *Id.* at 3. Attachment 3 is a redacted copy of the Singapore Post Agreement filed in Docket No. R2012-1. *Id.* Attachment 4 is a copy of Modification Two (filed in Docket No. R2013-5). *Id.* Attachment 5 is a redacted copy of Modification Three (filed in Docket No. R2013-8). *Id.* A redacted version of the financial workpapers appears in a separate public Excel file. *Id.*

The Postal Service states that the intended effective date of the 2014 Agreement is April 1, 2014; asserts that it is providing 45 days advance notice as required under 39 CFR 3010.41; and identifies a Postal Service official as a contact for further information. *Id.* at 4. The Postal Service identifies the parties to the 2014 Agreement as the United States Postal Service and Singapore Post Limited, the postal operator for Singapore. *Id.* It states that the 2014 Agreement includes negotiated pricing for inbound small packets with delivery scanning. *Id.*

The Postal Service asserts that other than extending the term and adding a sentence to Annex 2, Modification Four does not materially change the terms of the

² See Docket Nos. R2012-1, R2013-5, and R2013-8. In the latter two dockets, the Commission considered an agreement referred to as "2013 Agreement." The 2013 Agreement is currently in effect. It is scheduled to expire March 31, 2014.

³ The material filed under seal consists of a copy of the Singapore Post Agreement filed in Docket No. R2012-1 (Notice, Attachment 1); Modification Three (Notice, Attachment 5); and supporting financial documentation. *Id.* at 3.

Singapore Post Agreement.⁴ Notice at 5. The Postal Service therefore refers the Commission to the notice filed in Docket No. R2012-1 for a discussion of details regarding actions to assure that the Singapore Post 2014 Agreement will not result in unreasonable harm to the marketplace. *Id.*

Reporting requirements. In lieu of the detailed data collection plan required by rule 3010.43, the Postal Service proposes to report information on the 2014 Agreement through the Annual Compliance Report. *Id.* at 6. The Postal Service also invokes, with respect to service performance measurement reporting under rule 3055.3(a)(3), the standing exception in Order No. 996 for all agreements filed in the Foreign Postal Operators 1 product grouping. *Id.*⁵

Consistency with applicable statutory criteria. The Postal Service states that under 39 U.S.C. 3622, the criteria for the Commission's review are whether the 2013 Agreement: (1) improves the net financial position of the Postal Service or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. *Id.* at 7. The Postal Service states that Part I.A. of its Notice addresses the first two criteria. *Id.* With respect to the third criterion, the Postal Service asserts there are no entities similarly situated to Singapore Post Limited in their ability to tender broad-based Letter Post flows from Singapore under similar operational conditions, nor are there any other entities that serve as a designated operator for Letter Post originating in Singapore. *Id.*

Functional equivalence. The Postal Service posits that the 2014 Agreement is functionally equivalent to the Singapore Post Agreements previously included in the product grouping for Foreign Postal Operators 1 because it is very similar to 2013

⁴ The sentence reads: "The Exempt indicator in the PREDES message will reflect 'N'." Notice, Attachment 2 at 1. It is added to Annex 2, Small Packet with Delivery Scanning Requirements, at the end of section 3, Dispatch Manifesting, in the Dispatch Preparation Requirements section. *Id.*

⁵ Docket No. R2012-2, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 23, 2011 (Order No. 996).

Agreement (approved by the Commission in Docket No. R2013-8). *Id.* at 8. It states that the main difference is the addition of one sentence to Annex 2. *Id.* The Postal Service observes that the 2013 Agreement was found to be appropriately classified in the Foreign Postal Operators 1 product grouping because it met all applicable statutory and regulatory requirements. *Id.* It further states that the 2014 Agreement, like the 2013 Agreement, fits within the Mail Classification Language for the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1, so both therefore conform to a common description. *Id.* The Postal Service also states that the two agreements share a common market and have similar financial models for projection of costs and revenues. *Id.* The Postal Service therefore submits that the 2014 Agreement is functionally equivalent to its predecessor (the 2013 Agreement), and asserts the predecessor is a logical baseline for purposes of the functional equivalency comparison. *Id.* at 8-9. The Postal Service acknowledges the existence of two differences (the extension to March 31, 2015 and the additional sentence in Annex 2), but asserts that neither has an effect on the similarity of market characteristics or the similarity of cost differences. *Id.* at 9. The Postal Service therefore states that the differences do not detract from the conclusion that the 2014 Agreement is functionally equivalent to its predecessor agreement (the 2013 Agreement) in the Foreign Postal Operators 1 product grouping. *Id.*

Supplemental information. The sentence that is added in Annex 2 reads: “The Exempt indicator in the PREDES message will reflect ‘N’.” *Id.*, Attachment 2 at 1. The sentence immediately preceding the additional sentence refers to number of receptacles and number of individual pieces. *Id.* The Postal Service is directed to explain what the “N” in the new sentence refers to and to provide a brief explanation of PREDES. The Postal Service is also directed to address how the inclusion of the new sentence alters contractual obligations relative to the 2013 Agreement.

A response is due no later than February 24, 2014.

III. COMMISSION ACTION

The Commission, in conformance with rule 3010.44, establishes Docket No. R2014-5 to consider issues raised by the Notice. The Commission invites comments from interested persons on whether the 2014 Agreement is consistent with 39 U.S.C. 3622 and the requirements of 39 CFR part 3040. Comments are due no later than February 25, 2014. The public portions of this filing can be accessed via the Commission's website (<http://www.prc.gov>). Information on how to obtain access to non-public material appears at 39 CFR 3007.40.

The Commission appoints Lyudmila Bzhilyanskaya to serve as Public Representative in this docket.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. R2014-5 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, Lyudmila Bzhilyanskaya is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than February 25, 2014.
4. The Postal Service is directed to provide the supplemental information requested in the body of this Order no later than February 24, 2014.
5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary